

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.3210 pertaining to) PROPOSED AMENDMENT
recreating on the Helena Valley)
Regulating Reservoir)

TO: All Concerned Persons

1. On November 26, 2018, at 6:00 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Headquarters Building, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on November 16, 2018 to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail jesssnyder@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

12.11.3210 HELENA VALLEY EQUALIZING REGULATING RESERVOIR REGULATIONS ~~(1) The following rules have been devised in the interest of safety and the protection of property, for public health, and as a measure to achieve the fullest possible recreational use of the Helena Valley Equalizing Reservoir. These rules apply to the water surface of the reservoir and to those portions of the surrounding lands which have been specifically reserved for recreational use.~~

~~(2) (1) The main purpose of the Helena Valley Regulating equalizing rReservoir is to impound the waters for irrigation and for domestic water supply for the city of Helena. Accordingly, any person at any time going in or upon the lands or waters thereof, whether as a visitor, hunter, fisherman or windsurfer, shall assume all risks arising or resulting in injury or death to himself or damage to or destruction of property, resulting directly or indirectly, wholly or in part, and from use of said reservoir and lands or appurtenant structures or their construction, operation, and control by the United States or by the commission.~~

~~(3) The department may exclude public use or trespass of any kind within designated areas when such action is necessary to protect life, property, or public health, or it may designate any areas which are closed upon orders of the department of environmental quality because of the use of the reservoir for domestic water supply. Such areas shall be posted sufficiently to inform the public.~~

~~(4) (2) No boathouse or landing float, pier, or other docking or mooring device shall be installed without a written permit issued by the department or the~~

U.S. ~~b~~Bureau of ~~r~~Reclamation.

~~(5)~~ (3) The reservoir is restricted to Manually operated watercraft and watercraft powered by electric motors only ~~will be allowed on the reservoir.~~

~~(4)~~ Boat regattas and racing are prohibited ~~on the reservoir.~~

~~(6)~~ (5) No swimming or wading is permitted in the reservoir except when launching or removing a vessel from the reservoir ~~those persons windsurfing and wearing a wet suit or dry suit in designated areas. Designated areas as posted are closed to all windsurfing near the water outlets.~~

(6) Pets may not occupy the water but are allowed on ice covering the reservoir.

~~(7) Hunting and fishing are permitted upon compliance with the laws and regulations prescribed by the state of Montana, but are subject to such additional regulations as may be issued by the United States in order to protect the reservoir or other features. No hunting shall be allowed where it creates a safety hazard in regard to the lives or property of recreational area visitors nor shall hunting or fishing be allowed in an area close to the dam and spillway which shall be marked by buoys.~~

~~(8) Use of fireworks or explosives is prohibited.~~

~~(9) For regulations on firearms, fires, camping, picnicking, sanitation, vehicle use, disturbance of property, disorderly conduct, pets, and commercial activities, see ARM 12.8.201 et seq. (public use regulations). Other regulations on public use on the reservoir as adopted and posted by the department will apply.~~

~~(10) Any person violating any of the foregoing regulations may be ordered to remove his personal property from the reservoir and adjacent lands controlled by the commission or bureau of reclamation. In addition, he shall pay penalties as may be provided by law for such infraction of the rules.~~

(7) The following are prohibited upon ice covering the reservoir:

(a) fires; and

(b) all-terrain vehicles, off highway vehicles, snowmobiles, and any other vehicles.

AUTH: 87-1-303, MCA

IMP: ~~23-1-106~~, 87-1-303, MCA

REASON: The commission is proposing amendments to ARM 12.11.3210 in cooperation with the Bureau of Reclamation and the Helena Valley Irrigation District. The Helena Valley Regulating Reservoir and lands surrounding the reservoir are owned by the Bureau of Reclamation. In 1969, the commission signed a memorandum of understanding with the Bureau of Reclamation permitting the commission to assume the responsibilities for the administration and development of the lands and facilities at the reservoir for wildlife and recreation purposes. The Helena Valley Irrigation District is responsible for the operation and management of the irrigation water supply works pursuant to a separate agreement. The amendments remove redundant language found in the public use regulations, ARM 12.8.201 et seq., and provide rule language regarding the surface water of the reservoir and not the lands surrounding the reservoir, as intended by the rule.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Justin Hawkaluk, Department of Fish, Wildlife and Parks, 930 West Custer, Helena, Montana, 59602; or e-mail jhawkaluk@mt.gov, and must be received no later than December 7, 2018.

5. Jessica Snyder or another person appointed by the department has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the commission has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chair
Fish and Wildlife Commission

Certified to the Secretary of State October 23, 2018.